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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES FIDELITY AND
GUARANTY COMPANY,

Plaintiff,

and

CONTINENTAL INSURANCE
COMPANY,

Plaintiff Intervenor,

V.

SOCO WEST, INC.,

Defendant.

Cause No. CV-04-29-BLG-RFC
CV-08-29-BLG-RFC

DECLARATION OF DR. BRUCE E. DALE

Dr. Bruce E. Dale hereby declares as follows:

1. I have been designated as an expert witness by United States Fidelity and Guaranty Company and Continental Insurance Company (the "Insurers") to provide expert testimony in the above-captioned cases.

2. My expert deposition in these matters was taken on October 5, 2009 at which time I was asked about my experience in terms of having ever seen a spill of perc on an asphalt paved surface. In response, I specifically referred to having seen pictures of a perc spill on asphalt that occurred in the Lansing area several years ago. Those pictures were shown to me by an individual named Elden Dickinson, who I understand formerly worked for the State of Michigan, Department of Environmental Quality, in connection with expert work I was doing on another matter. I did not possess a copy of those photos at the time I prepared my June 1, 2009 expert report in these matters or at the time of my October 5, 2009 deposition.

3. It is my understanding that, following my deposition, counsel for the Insurers was able to obtain possession of a copy set of those photos from Mr. Dickinson. That copy set was provided to me on December 3, 2009. Attached hereto are color copies of the photographs in question. Those photo copies are, in fact, the same photos to which I had referred in my deposition that I had viewed in connection with my other expert work. In that deposition I described, among other things, how the photos I had previously seen depicted how spilled perc noticeably

affected the appearance of the asphalt surface involved. I also described how one photo depicted how "a person who put his boot in an area of perc and it left a very large indentation of the boot," as I stated at my deposition. (October 5, 2009 Dep. Tr. 42.) Specifically, that picture is included in the copy set attached and numbered USFG-02-000016.

4. Promptly after receiving the above-referenced photographs, I supplemented my prior expert disclosure to specifically reference those photos as among the materials that I had been provided expressly in connection with this case. Photographs such as these are extremely useful to depict the chemical reaction that occurs when perc comes into contact with asphalt and thus are reasonable and appropriate for experts like myself to rely upon in forming opinions of the sort I have set forth in my expert reports in these matters.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on February 9, 2010 in East Lansing, Michigan.



Dr. Bruce E. Dale